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8 *Counsel for Plaintiff and the Proposed Class*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 FRANK HIRSCH, on behalf of himself and all others)
13 similarly situated,)

14 Plaintiff,)

15 v.)

16 NETFLIX, INC., WAL-MART.COM USA LLC, and)
17 WAL-MART STORES, INC.)

18 Defendants.)

Case No. 09-0375 EDL

**DECLARATION OF HARRY
SHULMAN IN SUPPORT OF
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED
PURSUANT TO CIVIL L.R. 3-12
AND 7-11**

19 I, Harry Shulman, declare as follows:

20 1. I am an attorney with The Mills Law Firm. I am admitted to practice before the
21 bar of this Court and many other federal courts, as well as all state courts in California and
22 Colorado. I am counsel for Plaintiff Frank Hirsch in *Hirsch v. Netflix, Inc., et al.*, Case No. 09-
23 0375 EMC. I submit this Declaration in support of Plaintiff Hirsch's Administrative Motion to
24 Consider Whether Cases Should be Related. I have personal knowledge of the matters set forth
25 herein and can competently testify about them if called upon to do so.

26 2. Attached hereto as Exhibit A is a true and correct copy of the complaint captioned
27 *Hirsch v. Netflix, Inc., et al.*, Case No. 09-0375 EDL, filed on January 27, 2009 in the Northern
28 District of California and assigned to Magistrate Judge Elizabeth D. Laporte. The *Hirsch* case is
a proposed class action on behalf of all persons and entities that paid a subscription fee Netflix,
Inc. to rent DVDs between May 19, 2005 and the present.

1 3. On January 2, 2009, the case captioned *Resnick, et al. v. Walmart.com USA LLC*,
2 *et al.*, Case No. 09-0002 was filed in this District and ultimately assigned to the Honorable Phyllis
3 J. Hamilton. The *Resnick* and *Hirsch* actions involve all or a material part of the same subject
4 matter and common defendants, as do a number of other related actions pending in this District,
5 some of which have already been ordered related to *Resnick*.

6 4. Plaintiff Hirsch has not appeared in any other related action currently pending in
7 this District.

8 5. A stipulation pursuant to Civil Local Rule 7-11(a) could not be obtained prior to
9 the filing of the accompanying Administrative Motion to Consider Whether Cases Should Be
10 Related because defendants in the *Hirsch* action are in the process of being served and have
11 therefore not yet appeared in that action.

12 I declare under penalty of perjury under the laws of the United States that the
13 foregoing is true and correct. Executed this 29th day of January, 2009 at San Rafael,
14 California.

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16
17 /s/ Harry Shulman
18 Harry Shulman, Esq. (209908)
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